



Task Force on Fair Justice for All

Minutes

May 2, 2017

State Courts Building ♦ 1501 West Washington St. ♦ Conference Room 101
Phoenix, Arizona

Present: Dave Byers, Tom O’Connell, Kent Batty, Judge Maria Elena Cruz, India Davis, Jeff Fine, Kirstin Flores, Ryan Glover, Judge John Hudson, Robert James, Paul Julien, Doug Kooi, Jeremy Mussman, Dianne Post, Judge Antonio Riojas, Judge Lisa Roberts, Leonard Ruiz, Alessandra Soler (Will Gaona), Judge Don Taylor, Kathy Waters

Telephonic: Judge Michael Bluff, Judge Dorothy Little, Rebecca Steele

Absent: Michael Kurtenbach, Tony Penn, Judge Thomas Robinson

Presenters/Guests: Jerry Landau, David Withey, Jennifer Greene, Colleen Clase, Joel Edman, Donald Jacobson, Martin Lynch, Judge Steven McMurry, Sam Myers

Staff: Theresa Barrett, Susan Pickard, Sabrina Nash, Kathy Sekardi, Administrative Office of the Courts (AOC)

CALL TO ORDER – Dave Byers, Chair, called the meeting of the Task Force on Fair Justice for All to order at 10:04 a.m. with a quorum of the members present.

WELCOME AND OPENING REMARKS – Since the last Task Force meeting, *The Report and Recommendations of the Task Force on Fair Justice for All* has been presented to the following organizations:

- Harvard School of Law
- Morrison Institute at ASU, Public Forum
- Coconino County limited jurisdiction judges meeting
- Training Coordinators Annual Conference
- Pima County Annual Conference
- Arizona Courts Association
- Problem Solving Court Conference
- American Probation and Parole Association
- Mid-Atlantic States
- Arizona Magistrates Conference

APPROVAL OF MINUTES FROM DECEMBER 13, 2016

MOTION: To approve the minutes from December 13, 2016, as presented. Motion seconded. **VOTE:** Passed unanimously.

UPDATE ON RECOMMENDATIONS IN PROGRESS – Don Jacobson provided an update on the sentencing and bail reform efforts that are underway or being considered. He highlighted the following:

- Arizona Traffic Ticket and Complaint – modifications approved;
- Statewide text notification system – vendor selected, contract signed;
- Centralized ticket processing web site – built into the AJACS case management system currently being rolled out, research underway regarding the addition of submission of proof functionality;
- Compliance Assistance Programs (CAP) – implemented in four courts, differs by court;
- Fine Reduction Programs (FRP) – Yuma County pilot complete, implemented on a countywide basis;
- Plea by Mail reinstated effective October 2017
- Bench Card for Order to Show Cause hearings in relation to judges determining willfulness of non-payment, includes a tiered approach to monetary obligation reduction based on federal poverty levels the routine tasks of which could be delegated to staff – in draft form - seeking approval of concept of tiered approach

MOTION: to recommend that the Arizona Judicial Council adopt the Bench Card with the tie to the Federal Poverty Level and presumptive percentage amounts of reduction. **VOTE:** Passed 22-1-0

Suggested improvements to the bench card include:

1. Note that this process does not include victim restitution
 2. Highlight that this process cannot be used in cases with plea agreements
 3. Add the statutory citations for which this process applies
 4. Make clear that the defendant's probation cannot be revoked in a contempt hearing, but must be addressed in a probation revocation hearing.
- Direct sentencing to community restitution or probation education and treatment programs;
 - Timeframe for notification processes prior to issuing FTA or FTP license suspension;
 - Collaboration with Motor Vehicle Department to better utilize the directors ability to restrict rather than suspend a license for insurance violations;
 - Appointment of counsel at Initial Appearance if a person will be held for inability to pay bond;
 - Unsecured bond default process with the bond becoming the warrant amount and the judge's determination about what to do with the funds;
 - Elimination of criminal bail schedules – administrative order being drafted to address changes;
 - Automation of Public Safety Assessments to make feasible for limited jurisdiction courts;
 - Education programs; and
 - Municipal Court Governance Roles and Responsibilities (formerly the Q&A) updated.

Kent Batty announced the Pima County Mental Health Summit sponsored by Pima County Behavioral Health scheduled for May 16 and 17, 2017. He invited those who are interested in supporting the development of a robust and response system for mental illness treatment alternatives to incarceration to attend.

ACTION ITEM: The Task Force agreed that a subcommittee should be established to address Mental Health.

Mr. Batty also provided an update regarding the Pima County MacArthur Grant noting the following:

- Pretrial services staff are conducting mental health pre-screenings (SAMSA and drug screening tools) and a follow up referral to mental health services for qualified defendants.

- Research into identifying how to conduct mental health pre-screenings before the person is booked into jail is underway.
- Justice of the Peace Court Weekend Warrant Resolution Court participation is declining and is specifically linked to issue resolution. The Warrant Resolution Court has added text messaging in English and Spanish as well as remote video appearance to achieve additional appearances.
- The municipal court is just starting its Warrant Resolution Court and anticipates using text messaging and facetime, and continued license restoration through iCAP.
- The participation in home detention and electronic monitoring, instead of work release for those with appropriate risk factors, has slowed under new Sheriff's Office leadership.

UPDATE ON LEGISLATIVE PACKET MODIFICATIONS

Jerry Landau announced that absent the competency examination; jurisdiction bill (2017-04) and the court security bill, the other three bills sentencing; fines; fees; probation (2017-01), driving; violations; restricted license; penalties (2017-02) and bailable offenses; hearing; schedule (2017-03) did not get scheduled for a hearing in the House Judiciary Committee. A strike everything amendment containing the three stalled bills has been sponsored by Senator Burges.

Arizona Department of Transportation (ADOT) omnibus bill changes the definition of suspension, and will allow license auto reinstatement at the end of the suspension.

UPDATE ON RULE CHANGE PETITION (R-17-0015) – David Withey discussed two court opinions that were recently issued; *Simpson v Miller* (CR-16-0227-PR) and *Chantry v Astrosky* (1 CA-SA 17-0081). These actions require the harmonization of the rule change petition with that case law. It was noted that *State v Goodman* issued this week, should also be considered with the rule. David also discussed the timing of the bail eligibility hearing and the APAAC comment on the bail eligibility hearing timing.

MOTION: To stay the course with reference to bail eligibility hearing timing. Motion seconded.

VOTE: Passed unanimously.

CALL TO THE PUBLIC – Martin Lynch addressed the Task Force.

Dave Byers noted the new Subcommittee on Post-conviction Set-aside that will be meeting in five minutes, and the agreement by the Task Force to establish a mental health subcommittee.

ADJOURNMENT – Mr. Byers adjourned the meeting at 12:55 p.m.